

IN THE DRAWINGS

Please replace Figure 9 with Replacement Figure 9.

REMARKS

In the Office Action mailed October 4, 2006, the Examiner objected to the Specification, objected to Figure 9, rejected Claim 58 under 35 U.S.C. §112(2) for being indefinite, and rejected Claims 53 and 56-62 under obviousness type double patenting. Each objection and rejection is addressed below.

I. Objection to the Specification

The Examiner stated, "The continuing data of the current application is needed to be updated." The Applicants now update the continuing data of the current application.

The Examiner stated, "On page 2, line 7, 'HTK' should be spelled out for the first instance of use; see also page 4, line 21, 'IGF-1' 'EGF' and 'NGF'." The Applicants now amend the Specification in the manner suggested by the Examiner.

The Examiner stated, "The current specification does not comply with one or more parts of 37 C.F.R. 1.821-1.825 since on page 19, lines 15-16, the specification recites amino acid sequences...without the requisite 'SEQ ID NOs.'...A new paper copy and computer readable form (CRF) are required as is the statement regarding no new matter and that the paper and CRF copies are identical." The Applicants now amend the Specification to add sequence identification numbers for the sequences. A new Sequence Listing is being prepared and will be forwarded as soon as possible.

The Examiner stated, "In claim 55, 'about 1 to 200 g/l' should be changed to 'about 1 g/l to 200 g/l' in order for consistency...Similarly, see claim 59...60...66...and claim 67." The Applicants now amend Claims 55, 59, 60, 66 and 67 in the manner suggested by the Examiner.

II. Objection to Figure 9

The Examiner stated, "Figure 9 is objected to because the figure should be presented in a transparent background." The Applicants now provide a Replacement Figure 9.

III. Rejection of Claim 58 under 35 U.S.C. §112(2)

Claim 58 was rejected under 35 U.S.C. §112(2) for being indefinite. In particular, the Examiner stated, "Claim 58 is indefinite because SEQ ID NO:37 is a polypeptide sequence which has no ability of encoding the defensin polypeptide." The Applicants now amend Claim

58 such that the phrase, "said defensin is encoded by SEQ ID NO: 37" is replaced with the phrase, "the amino acid sequence for said defensin is SEQ ID NO: 37." The Applicants request this rejection be withdrawn.


II. Rejection of Claims 53 and 56-62 under Obviousness Type Double Patenting

The Examiner stated, "Claims 53 and 56-62 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 10, 12 and 14-17 of U.S. Patent No. 6696238." In order to expedite prosecution while not acquiescing with the Examiner's arguments, the Applicants now submit a Terminal Disclaimer to overcome this rejection.

III. Conclusion

All grounds of rejection of the Office Action of October 4, 2006 have been addressed and reconsideration of the application is respectfully requested. Should the Examiner believe that a telephone interview would aid in the prosecution of this application Applicant encourages the Examiner to call the undersigned collect at (608) 218-6900.

Dated: 3-5-2007


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